

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

---

WYETH, )  
              )  
Plaintiff, )  
              )  
v.           ) C. A. No. 06-222 (JJF)  
              )  
IMPAX LABORATORIES, INC., )  
              )  
Defendant. )  
\_\_\_\_\_)

**STIPULATION REGARDING JURY DEMAND AND WILLFUL INFRINGEMENT**

IT IS HEREBY STIPULATED by the parties, subject to the approval of the Court, as follows:

1. Impax Laboratories, Inc. ("Impax") hereby withdraws its jury demand, but expressly reserves the right to reinstitute that demand should Wyeth decide in the future to amend its pleadings to add a claim for damages.
2. Wyeth does not waive its right to contest any jury demand that Impax may make in the future.
3. Wyeth hereby withdraws its claim of willful infringement of the patents-in-suit, with the express understanding that Wyeth does not withdraw its claim that this case is exceptional, entitling Wyeth to attorneys fees and costs, and with the express understanding that Wyeth will seek discovery with respect to its claim that this case is exceptional.
4. Impax does not waive its right to contest the scope of discovery Wyeth is entitled to in support of its claim under 35 U.S.C. § 285.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP      MORRIS, JAMES, HITCHENS & WILLIAMS

/s/ *Karen Jacobs Louden*

/s/ *Mary B. Matterer*

---

Jack B. Blumenfeld (#1014)  
Karen Jacobs Louden (#2881)  
klouden@mnat.com  
1201 N. Market Street  
Wilmington, DE 19899-1347  
(302) 658-9200  
*Attorneys for Plaintiff*

---

Mary B. Matterer (#2696)  
mmatterer@morrisjames.com  
222 Delaware Avenue  
P.O. Box 2306  
Wilmington, DE 19899  
*Attorneys for Defendant*

OF COUNSEL:

Basil J. Lewis  
Linda A. Wadler  
Finnegan, Henderson, Farabow,  
Garrett & Dunner, L.L.P.  
901 New York Avenue, N.W.  
Washington, D.C. 20001  
(202) 408-4000

OF COUNSEL:

John M. Benassi  
Jessica R. Wolff  
Samuel F. Ernst.  
Heller Ehrman LLP  
4350 La Jolla Village Drive, 7<sup>th</sup> Floor  
San Diego, CA 92101  
(858) 450-8400

Dated: July 12, 2006

SO ORDERED this \_\_\_\_ day of July, 2006.

---

United States District Court Judge